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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**

8 Levanna C. Traylor, *et al.* on behalf of
9 themselves and on behalf of all others
10 similarly situated

11 Plaintiffs,

12 vs.

13 Avnet, Inc.; Avnet Pension Plan,
14

15 Defendants.
16

No. CV 08-00918-PHX-FJM

**ORDER APPROVING THIRD AND FINAL
DISTRIBUTION OF NET RESIDUAL
SETTLEMENT FUNDS**

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18 This matter is before the Court, having previously entered Judgment on April 4,
19 2010 approving pursuant to Fed. R. Civ. P. 23(e) the settlement of this class action (the
20 “Litigation”) brought by Plaintiffs Levanna C. Traylor, Kevin R. Moses, James Frederic
21 Coy, Gwyn M. Moriarty, Linda M. Phillips, Thomas G. Small, Dwayne E. Cohen, and
22 Steve A. Dison (“Plaintiffs” or “Named Plaintiffs”) individually and on behalf of the
23 Lump Sum Class and Restricted Participant Class (the “Classes”), against Defendants
24 Avnet, Inc. and the Avnet Pension Plan (“Plan”) (collectively, “Defendants”).
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26 Upon consideration of Plaintiffs’ Unopposed Motion for Approval of Third and
27 Final Distribution of Net Residual Settlement Funds, which is supported by the
28

1 Declaration of Ann Sturner, E.A., F.S.A. and the Declaration of Mark Cowen of Rust
2 Consulting, together with exhibits attached thereto, the Court finds that, like the 345
3 members of the Lump Sum Class who could not be located in the Initial Distribution,
4 another 567 members of the Lump Sum Class (“Unreachable Class members”) could not
5 be located by the Settlement Administrator, Rust Consulting, Inc. (“Rust”) in the Second
6 Distribution, despite its diligent efforts, and that further efforts to locate these missing
7 class members are unlikely to succeed.
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10 Accordingly, it is hereby ORDERED that:

11 1. Rust shall perform a distribution to the 2,547 Lump Sum Class members
12 who were successfully located and paid in the Second Distribution and have yet to be
13 fully compensated for their alleged underpayments (“Paid Class members”) the net
14 residual settlement proceeds attributable to the Unreachable Class members.
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16 2. The third distribution shall be performed in the manner described and
17 calculated by Enrolled Actuary Sturner in her July 5, 2017 declaration and accompanying
18 attachments such that each Paid Class members shall receive a third and final payment
19 from the Total Net Residual Settlement Funds on the same *pro rata* basis that the original
20 net settlement benefits were allocated to individual members of the Lump Sum Class,
21 except that all third payments shall be equal to the Class member’s *pro rata* share of
22 residual net settlement proceeds or \$14, whichever is greater, but in no case shall the
23 Class member receive a combined payment that exceeds his or her actual damages, as
24 described in the Sturner Declaration.
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1 3. The Court approves the proposed payment of \$19,960.00 to the Settlement
2 Administrator from the residual settlement funds for services to be rendered in connection
3 with the third distribution of net residual settlement funds to the Paid Class members.
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5 4. The distribution of residual settlement funds in the manner specified in the
6 Rust and Sturner Declarations shall commence as soon as practicable without further
7 order of the Court. Rust shall make one final attempt to distribute residual settlement
8 funds as specified in the Rust Declaration.
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10 5. Any residual settlement funds still remaining after the Settlement
11 Administrator completes the third distribution shall be distributed to the Pension Rights
12 Center under the doctrine of *cy pres*.
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14 6. No later than December 30, 2017, the Settlement Administrator shall submit
15 a written status report confirming the distribution of all residual settlement funds.
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17 7. For the avoidance of doubt, no Paid Class Member and no Defendants shall
18 be liable to any Unreachable Class members who may attempt to claim a settlement
19 payment under the terms of the original plan of distribution in effect prior to the entry of
20 this Order.

21 Dated this 8th day of August, 2017.
22

23 Frederick J. Martone

24 Frederick J. Martone
25 Senior United States District Judge
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